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TECH CENTER 1600/2800

08/058,162 SERIAL NUMBER	05/04/93 FILING DATE	ABRUTYN FIRST NAMED APPLICANT	E	DC-2914 ATTORNEY DOCKET NO.
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ORE, D

12M2/0920

EXAMINER

PATENT DEPT.  
MAIL C01232  
DOW CORNING CORPORATION  
MIDLAND, MI 48686

REC'D

ART 101P

PAPER NUMBER

SEP 25 1995

09/20/95

DATE MAILED:

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents.

The Board's request for clarification as to the entry, of the amendment of November 22, 1993 is noted and clarification appears below:

The amendment, of November 22, 1993, has been entered.

The entry of the aforementioned amendment does render the instant claims allowable.

The ultimate claimed composition is still defined as a solid pheromone entrapped composition and therefore unpatentable over the prior art of record.

Accordingly, no reason is seen for withdrawing from the position of record.

Respectfully submitted,

Dale R. Ore

PRIMARY EXAMINER  
GROUP 1200



UNITED STATES DEPARTMENT OF COMMERCE  
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TECH CENTER 1600/2000

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Paper No. 12

Serial Number: 08/058163  
Filing Date: 0/04/93  
Appellant(s): Eric S. Abrutyn

Jim De Cesare  
For Appellant

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed 09/19/94.

STATUS OF THE CLAIMS

The statement of the status of claims contained in the brief is correct.

STATUS OF THE AMENDMENTS

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

SUMMARY OF THE INVENTION

The summary of invention contained in the brief is correct.

ISSUES

The appellant's statement of the issues in the brief is correct.

GROUPINGS OF THE CLAIMS

Serial Number: 08058163

-2-

Art Unit: 1203

Appellant's brief includes a statement that claims 1-19 do not stand or fall together and provides reasons as set forth in 37 C.F.R. § 1.192(c)(5) and (c)(6).

#### CLAIMS APPEALED

The copy of the appealed claims contained in the Appendix to the brief is correct.

#### PRIOR ART OF RECORD

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

British Patent 1336495      CIBA-GEIGY      11-1973

#### NO NEW PRIOR ART

No new prior art has been applied in this examiner's answer.

#### GROUNDS OF REJECTION

Claims 1-19 are rejected under 35 USC 112. This rejection is set forth in the prior Office action paper number 07.

Claims 1-19 are rejected under 35 USC 103. This rejection is set forth in the prior Office action paper number 07.

#### NEW GROUND OF REJECTION

This Examiner's Answer does not contain any new ground of rejection.

#### RESPONSE TO ARGUMENT

Appellants arguments addressed to the rejection of record have been considered, but the same are not persuasive. Appellants urging that the term "solid" refers to the polymer is not

Art Unit: 1203

convincing, since appellant indicates in his Oath that the error which renders the patent claims inoperative is the recitation of the term "solid" where "liquid" should be recited for the pheromone. See page 4, lines 12-18.

Appellants urging that the reissue declaration is not defective, because the pheromones recited are liquids is not convincing. See page 26, of the instant specification and page 4, of the Ofice action of 05/16/94.

Appellants urging that the disclosure of Ciba-Geigy fails to render the instant invention obvious, because the polymer is not crosslinked is not convincing. The entrapping polymer recited in the instant claims as drafted fails to exclude polymers prepared in the manner in which the Ciba polymers are prepared. The reference renders the instant invention obvious, since the ultimate utility is the same , i.e. the polymeric entrapment of an active agent. The routineer having the Ciba patent before him would be motivated to use various insect attractants and pesticides in a polymer entrapment to deliver such agents. Accordingly, the instant invention is deemed obvious.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Dale R. Ore

DALE R. ORE  
PRIMARY EXAMINER  
GROUP 120